

JUL 24 2006

FEDERAL ELECTION
COMMISSION
SECRETARIAT

2006 JUL 24 A 9:45

FEDERAL ELECTION COMMISSION

**999 E Street, N.W.
Washington, D.C. 20463**

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

RAD REFERRAL: 05L-51

DATE ACTIVATED: 05/24/06

EXPIRATION OF STATUTE OF

LIMITATIONS: 02/04/09

SOURCE:

INTERNALLY GENERATED

RESPONDENTS:

Arizona Supports Rick Murphy and Christopher
Rolando, in his official capacity as treasurer

RELEVANT STATUTE:

2 U.S.C. § 434(b)(4)

INTERNAL REPORTS CHECKED:

Disclosure Reports
Requests for Additional Information
Responses to Requests for Additional Information

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

Arizona Supports Rick Murphy and Christopher Rolando, in his official capacity as treasurer (the "Committee"), failed to disclose disbursements of \$276,796.25 in their 2004 12 Day Pre-Primary Report ("Pre-Primary Report"). For the reasons set forth below, we recommend that the Commission find reason to believe that Arizona Supports Rick Murphy and Christopher Rolando, in his official capacity as treasurer, violated 2 U.S.C. § 434(b)(4) by failing to report these disbursements

26044150613

II. BACKGROUND

The Committee is the principal campaign committee of Rick Murphy, a 2004 candidate in Arizona's Second Congressional District. In its initial Pre-Primary Report, which was filed on August 27, 2004, the Committee reported disbursements of \$1,769.48 on Line 17 (Operating Expenditures) of the Detailed Summary Page. Subsequently, on February 4, 2005, the Committee filed an amended Pre-Primary Report, which disclosed disbursements of \$278,565.73 on Line 17 (Operating Expenditures) of the Detailed Summary Page, an increase of \$276,796.25 from the initial report.¹

On March 16, 2005, the Reports Analysis Division ("RAD") sent a Request for Additional Information ("RAFI") to the Committee regarding the increased disbursements. On March 25, 2005, the Committee filed a miscellaneous electronic submission with the Commission, stating that:

Shortly before February 4, Aristotle, the campaign software we use, notified us that their software was causing errors. We are not sure what the software error was. Aristotle will be able to answer that. When they fixed their software error, we amended every report since the beginning of the campaign to ensure correct figures.

Subsequently, a RAD analyst told the Committee's treasurer, Christopher Rolando, that the Committee could submit an explanation from Aristotle regarding the software issue that would be included in RAD's referral to the Office of General Counsel.

On June 27, 2005, Mr. Rolando called the RAD analyst, and stated that Aristotle would not agree to submit a document explaining the problem. He further stated that in conversations with Aristotle, it had become evident that the Committee, as well as Aristotle, had made mistakes.

¹ The Pre-Primary Report was further amended on March 22, 2005 and January 13, 2006, with the same information on Line 17 as the first amended Pre-Primary Report.

26044150614

1 In a letter to the Commission dated June 29, 2005, Mr. Rolando stated "[a]lthough
2 Aristotle will not take responsibility for the error directly, all the blame does not belong with
3 them." He then attempted to explain the situation in more detail. According to Mr. Rolando:

4 Following the receipt of [the RFAI] we went back and noted
5 the massive increase in expenses as noted. Immediately after finding
6 the mistake we went back and looked for the errors. To be honest, we
7 found about \$10K in errors, but not the over \$240K in errors that
8 showed in the bottom line, represented by 92 separate transactions. But
9 then in a line by line search of entries we noted a large number of
10 transactions missing....

11
12 In our conversation with Aristotle, we kept returning to how this
13 could have happened. Entire records were missing as well as data entries.
14 The only answer that we could get is that we could have been working in
15 two databases, one on the local machine and the other on the Aristotle
16 servers. If this were the case, this would explain how transactions could
17 have disappeared. According to Aristotle, this could happen with a simple
18 clicking or un-clicking of one check box. While I cannot 100% confirm this
19 is what we did, it is the only reasonable explanation of what could have gone
20 so wrong.

21
22 *Id.* Nonetheless, the treasurer accepted responsibility for his part in the Committee's filing of the
23 inaccurate Pre-Primary Report, noting that:

24 In addition to the obvious error stated above is the fact that I did not
25 check the report the way I should have before finalizing it with Aristotle.
26 Being my first campaign ever, I did not familiarize myself enough with the
27 forms and what totals meant. To an outsider the forms are quite confusing,
28 and while I thought I understood what I was looking at I obviously did not.
29

30 It is obvious by the speed at which we moved to make these corrections
31 that there was no intent to hide anything. We just plain and simple screwed up
32 the software somehow and did not read the bottom line before hitting submit.

26044150615

III. ANALYSIS

The treasurer of a political committee must file reports in accordance with the Act.

2 U.S.C. § 434(a)(1). A political committee is required to file a pre-election report no later than the 12th day before any election in which the candidate is seeking election, or nomination for election. 2 U.S.C. § 434(a)(2)(A)(i). Such report shall disclose the total amount of disbursements by the committee. 2 U.S.C. § 434(b)(4).

The Committee did not comply with reporting requirements when it failed to disclose an additional \$276,796.25 in disbursements in the original Pre-Primary Report, which was filed on August 27, 2004. This critical information in an election-sensitive report, which constituted a 15,647% increase in disbursements, was not disclosed until over five months after the original report was filed, and well after the election. Additionally, as noted above, while there may have been software or data entry problems, the Committee concedes in its June 29, 2005 letter that it erred in not adequately checking the report before submitting it to the Commission. Accordingly, we recommend that the Commission find reason to believe that Arizona Supports Rick Murphy and Christopher Rolando, in his official capacity as treasurer, violated 2 U.S.C. § 434(b)(4).

IV. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

26044150616

V.

RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that Arizona Supports Rick Murphy and Christopher Rolando, in his official capacity as treasurer, violated 2 U.S.C. § 434(b)(4).
- 3.
- 4.
5. Approve the attached Factual and Legal Analysis.

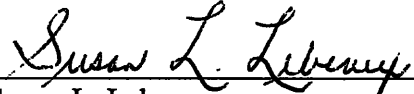
6. Approve the appropriate letter.

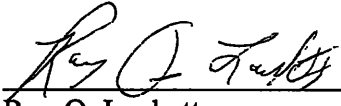
Lawrence H. Norton
General Counsel

Rhonda J. Vosdingh
Associate General Counsel
for Enforcement

7/21/06
Date

BY:


Susan L. Lebeaux
Assistant General Counsel


Roy Q. Lockett
Attorney

Attachments:

1. Factual and Legal Analysis
- 2.

26044150618